IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15442 of 2004

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Between:

1 T. Narsimha Reddy, S/o. Kista Reddy
Atmakur Village, Mandal Nagireddypet, District

Nizamabad.
2 T. Sanga Reddy S/o. Kista Reddy
Atmakur village, Mandal Nagireddypet,
District Nizamabad.

..... PETITIONERS

AND

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1 The District Collector Nizamabad, Nizamabad District.
2 District Panchayat Officer Nizamabad, Nizamabad

District.
3 The Village Secretary, Gram Panchayat jalalpur Mandal,
Nagareddypet, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue any Order or orders or directions, writ or writ more particularly one in the nature of writ of Mandamus, declaring the action of the 3rd respondent in issuing the notice dated 22.8.2004 for removal of stone wall which is exiting in our lands in survey No. 128 P of Atmakur village, Nagireddypet Mandal, Nizamabad District, for laying of B.T. road between Jalalpur gate to Ravindereddy kottamleading to Jalalpur village to Atmakur village without issuing any proceedings under the land acquisation Act. 1894, is illegal arbitrary and against the principles of natural justice and set aside the same in the interest of justice and equity.

Counsel for the Petitioner: MR.CH.JANARDHAN REDDY

Counsel for Respondents: GP FOR PANCHAYAT RAJ & RURAL

DEVELOPMENT

The Court Made the Following ORDER:

Heard the learned counsel for the petitioners and learned Assistant Government Pleader for respondents.

Learned Assistant Government Pleader fairly submits that the writ petition is filed only against the letter dated 22-8-2004 issued by the third respondent asking the petitioners to remove the stonewall for laying of the road. If the land of the petitioners including stonewall constructed is to be acquired for widening of road, necessary proceedings would be followed.

Time and again this court held that a private citizen cannot be dispossessed from his property, which would be affected by widening of any road, without following the due procedure prescribed by law or without obtaining the consent of the owner.

In view of the same, in the event of the lands of the petitioners are likely to be acquired or affected by such widening of road, the respondents cannot dispossess the petitioners or remove the stone wall, if any, constructed in the lands belonging to the petitioners without following due procedure prescribed by law. If the said construction is made on the road and do not belong to the petitioners the petitioners should be put on notice. But without following the due procedure prescribed by law, the respondents cannot take possession of the property.

Accordingly the Writ Petition is disposed of at the admission stage. No costs.

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A. Gopal Reddy, J.

30th August, 2004.

Js.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector Nizamabad, Nizamabad District.
2 District Panchayat Officer Nizamabad, Nizamabad

District.
3 The Village Secretary, Gram Panchayat jalalpur Mandal,
Nagareddypet, Nizamabad District.

4 2 CCs to G.P. for Panchayat Raj & Rural Development, High

Court Buildings, Hyderabad.

5 2 CD copies